

IN THE CIRCUIT COURT OF BOONE COUNTY, MISSOURI

STATE OF MISSOURI ex rel.,)
JEREMIAH W. (JAY) NIXON,)
Attorney General of Missouri,)

AND THE MISSOURI DEPARTMENT)
OF NATURAL RESOURCES,)

Plaintiffs,)

v.)

Case No. _____

MEDICAL WASTE MANAGEMENT, INC.,)
Wally El-Beck, President)
136 East Hazel Dell)
Springfield, IL 62707, (Sagamon County, IL))

WALLY EL-BECK, individually,)
136 East Hazel Dell)
Springfield, IL 62707, (Sagamon County, IL))

M.W.A. ENTERPRISE, L.L.C.,)
Adil Suliman, Registered Agent)
403 Enchanted Pkwy, Ste 301)
Ballwin, MO 63021 (St. Louis Co.),)

MOUMEN KUZIEZ, individually,)
400 Country Club Drive)
Ballwin, MO 63011 (St. Louis Co.), and)

MAJED EL-DWEIK)
1200 Glenwood Avenue)
Columbia, MO 65203 (Boone Co.),)

Defendants.)

**PETITION FOR PRELIMINARY INJUNCTION, PERMANENT INJUNCTION, AND
CIVIL PENALTIES**

COMES NOW, Plaintiff, the State of Missouri, at the relation of Jeremiah W. (Jay)
Nixon, the Attorney General of Missouri, and the Missouri Department of Natural Resources,

and for its petition against Defendants Medical Waste Management, Inc., Wally El-Beck, M.W.A. Enterprise, L.L.C., Moumen Kuziez, and Majed El-Dweik, states as follows:

ALLEGATIONS PERTAINING TO ALL COUNTS

1. Plaintiff, Jeremiah W. (Jay) Nixon, is the duly qualified, elected, and acting Attorney General of Missouri. The Attorney General is authorized to institute, in the name and on behalf of the state, civil proceedings at law or in equity necessary to protect the rights and interests of the state under §27.060, RSMo. Plaintiff brings this action in the name of the people of Missouri.

2. The Missouri Department of Natural Resources, (“the Department”), is a duly authorized state agency created under Section 640.010, RSMo, in part, to enforce the provisions of the Missouri Solid Waste Management Law, §§260.200 through 260.345, RSMo, (as amended), and the Missouri Hazardous Waste Management Law, §§260.350 through 260.482, RSMo and both laws implementing accompanying regulations.

3. The acts of Defendants alleged herein occurred in Boone County, Missouri and therefore venue is proper pursuant to §260.240, RSMo. Additional acts of Defendants as alleged herein occurred throughout Missouri.

4. Medical Waste Management, Inc. is a Missouri corporation, but was administratively dissolved on September 4, 2002 by the Missouri Secretary of State’s Office for failure to file an annual report pursuant to §315.486.3, RSMo 2000.

5. Wally El-Beck is the president and only shareholder of Medical Waste Management, Inc.

6. Defendant Wally El-Beck has failed to wind up and liquidate the business of Medical Waste Management, Inc. pursuant to §351.486.3 and 351.476, RSMo 2000.

7. Wally El-Beck is individually liable for his own personal violations of the Missouri Solid Waste Management Law and Missouri Hazardous Waste Law as alleged herein. Wally El-Beck is individually liable for Medical Waste Management, Inc.'s violations of the Missouri Solid Waste Management Law and Missouri Hazardous Waste Law because he has failed to wind up and liquidate the business of Medical Waste Management, Inc. and instead carried on the business activities of Medical Waste Management, Inc.

8. Defendant M.W.A. Enterprise, L.L.C. is a corporation in good standing with the Missouri Secretary of State's Office and was organized by Defendant Moumen Kuziez.

9. Based upon information and belief, Defendant Moumen Kuziez is sole organizer and president of M.W.A. Enterprise, L.L.C.

10. Defendant Moumen Kuziez is individually liable for his own personal violations of the Missouri Solid Waste Management Law and Missouri Hazardous Waste Law as alleged herein.

11. Defendant Majed El-Dweik is a sales representative of Medical Waste Management, Inc. who personally engaged in the violations of the Missouri Solid Waste Management Law and Missouri Hazardous Waste Law as set out below.

12. At all relevant times herein, Defendant El-Dweik was an owner of the residence located at 2804 Oakland Gravel Road, Columbia, MO, (the "residence.")

**VIOLATIONS FOR TRANSPORTING INFECTIOUS WASTE WITHOUT A
HAZARDOUS WASTE TRANSPORTER LICENSE**

13. Plaintiff realleges and incorporates by reference each and every allegation contained in paragraphs 1-12.

14. Persons or corporations who transport infectious waste in Missouri are required to obtain a hazardous waste transporter license from the Department by 10 CSR 80-7.010(4) and 10 CSR 25-6.263(2).

15. From June 16, 2000 until March 12, 2001, Medical Waste Management, Inc. held Hazardous Waste Transporter License No. H-2317. A true and accurate copy of Hazardous Waste Transporter License No. H-2317 is attached hereto and incorporated as Exhibit A.

16. On March 12, 2001, the Department issued Notice of Violation No. 4848 to Medical Waste Management, Inc. for failure to provide the Department with demonstration of financial responsibility or insurance on the vehicles used for the transport of the infectious waste in violation of the Missouri Hazardous Waste Management Law §260.395.1(2), RSMo 2000. The cover letter attached to Notice of Violation No. 4848 explained that due to the violation, Medical Waste Management, Inc.'s Hazardous Waste Transporter License was now invalid. A true and accurate copy of Notice of Violation, ("NOV"), No. 4848 and its accompanying cover letter are attached hereto and incorporated as Exhibit B.

17. To date, Defendants Wally El-Beck, M.W.A. Enterprise, L.L.C., Majed El-Dweik, and Moumen Kuziez have never held a hazardous waste transporter license from the State of Missouri.

18. Based upon information and belief, Defendants Medical Waste Management, Inc., Wally El-Beck, M.W.A. Enterprise, L.L.C., and Moumen Kuziez have illegally transported infectious waste within the State of Missouri from at least the following generators on at least the following dates:

- a. Ste. Genevieve Co. Memorial Hospital on thirty-nine separate occasions between the dates of March 12, 2001 and October 31, 2002 with the infectious waste being transported out of Missouri;
- b. Apria Health Care on five separate occasions on March 15, 2001; April 10, 2001; May 2, 2001; May 16, 2001; and June 26, 2001 with the infectious waste being transported out of Missouri.

19. Based upon information and belief, all of the Defendants have illegally transported infectious waste within the State of Missouri from at least the following generators on at least the following dates:

- a. Integrity Home Care on one occasion on March 7, 2002 with the infectious waste being transported to and stored illegally at the residence;
- b. Dr. Coleman on one occasion on July 2, 2002 with the infectious waste being transported to and stored illegally at the residence;
- c. Carraher Chiropractic on one occasion on April 17, 2002 with the infectious waste being transported to and stored illegally at the residence;
- d. Central Missouri Medical Association on one occasion on May 3, 2002 with the infectious waste being transported to and stored illegally at the residence;

- e. Pershing Health System on five separate occasions on April 1, 2002; April 25, 2002; June 3, 2002; July 12, 2002; and August 5, 2002 with the infectious waste being transported to and stored illegally at the residence;
- f. Pike County Memorial Hospital on twenty-two separate occasions between the dates of February 27, 2002 and October 11, 2002 with the infectious waste being transported to and stored illegally at the residence.

**VIOLATIONS OF ILLEGAL STORAGE AND TRANSPORTATION
AT A RESIDENCE IN COLUMBIA, MO**

20. Plaintiff realleges and incorporates by reference each and every allegation contained in paragraphs 1-19.

21. On or about October 29, 2002, the Department received a complaint about illegal storage of infectious waste in a private residence located at 2804 Oakland Gravel Road, Columbia, MO. After investigating, Department Staff discovered that approximately seventy-five containers of infectious waste, as defined in §260.200(17), RSMo 2000, was being illegally stored in the residence. Department Staff determined that the residence was owned partially by Defendant Majed El-Dweik.

22. Department Staff discussed the illegal storage with Defendants El-Dweik and Kuziez. The Department instructed El-Dweik and Kuziez that the infectious waste could only be transported from the residence by a infectious waste transporter with a valid Missouri hazardous waste transporter license.

23. On or about October 31, 2002, the Department reinspected the residence and discovered that all seventy-five containers of infectious waste had been removed from the residence.

24. On October 31, 2002, Department Staff contacted Defendant Moumen Kuziez and he admitted that someone associated with Medical Waste Management, Inc. and/or M.W.A. Enterprise, L.L.C. had removed the infectious waste from the residence, transported it through Missouri, and had taken it to Arkansas for incineration.

25. Based upon information and belief, Defendant Moumen Kuziez and/or Defendant Wally El-Beck personally ordered a driver of either M.W.A. Enterprise L.L.C. or Medical Waste Management to go pick up the infectious waste and transport it illegally to Arkansas, although none of the Defendants held a valid hazardous waste transporter license.

26. On November 25, 2002, the Department issued NOV No. 30246 to Medical Waste Management, Inc. for multiple violations of the Missouri Solid Waste Management Law including, but not limited to, illegal transfer of infectious waste from a generator to an unpermitted infectious waste processing facility in violation of §260.203.1, RSMo 2000; transporting infectious waste without a license in violation of 10 CSR 80-7.010(4); operation of an illegal solid waste transfer station which stores infectious waste in violation of 10 CSR 80-7.010(5)(B); and failure to remit fees to the Department for each ton of infectious waste transported in violation of §260.203.8, RSMo 2000 and 10 CSR 80-7.010(5)(D). A true and accurate copy of NOV No. 30246 and its accompanying cover letter are attached hereto and incorporated as Exhibit C.

27. Section 260.203.1, RSMo 2000, requires that infectious waste transferred from the premises of the generator be taken to an infectious waste processing facility that holds a valid permit issued by the Department.

28. From at least February 27, 2002 until October 31, 2002, Defendants violated §260.203.1, RSMo 2000 by illegally storing infectious waste in the residence.

29. In addition, the infectious waste regulations require that infectious waste transporters receive tracking documents from the generator of the infectious waste, sign and date the tracking documents, ensure that the tracking documents accompany the infectious waste, and ensure that the entire quantity of infectious waste is delivered to the designated facility. 10 CSR 80-7.010(3).

30. From at least March 12, 2001 until October 31, 2002, Defendants failed to comply with the tracking document requirements of the infectious waste regulations on numerous occasions.

31. Pursuant to § 260.240.1, RSMo 2000, Defendants are subject to the imposition of a civil penalty not to exceed \$1,000.00 per day for each day, or part thereof, that they have illegally stored infectious waste and illegally transported infectious waste, or otherwise violated the provisions of the Missouri Solid Waste Management Law.

32. Pursuant to § 260.425.1, RSMo 2000, Defendants are subject to the imposition of a civil penalty not to exceed \$10,000.00 per day for each day, or part thereof, that they have illegally transported infectious waste, or otherwise violated the provisions of the Missouri Hazardous Waste Management Law.

33. The unlawful acts of Defendants are of such a continuous nature, and are in such conscious disregard for the public health and the protection of the soils, waters, and air resources of the State of Missouri, that Plaintiff believes the Missouri Solid Waste Management Law will continue to be violated by Defendants unless they are restrained by the Court.

34. Pursuant to § 260.240.1, RSMo 2000, Defendants are subject to an injunction compelling them to cease illegally transporting infectious waste within the State of Missouri.

35. Plaintiff has no adequate remedy at law.

WHEREFORE, Plaintiff prays for this Court's order that:

A. Issues a preliminary and permanent injunction compelling Defendants to cease illegally transporting and storing infectious waste within the State of Missouri;

B. Imposes against each Defendant an appropriate civil penalty not to exceed \$10,000.00 per day for each day, or part thereof, that they have illegally transported infectious waste or otherwise violated the provisions of §§ 260.350 to 260.430, RSMo 2000; and

C. Imposes against each Defendant an appropriate civil penalty not to exceed \$1,000.00 per day for each day, or part thereof, that they have illegally stored infectious waste or otherwise violated the provisions of §§ 260.200 to 260.245, RSMo 2000; and

D. Grants such further relief as this Court deems just and proper.

Respectfully submitted,

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